

**NPDES PERMIT NO. NM0020532
RESPONSE TO COMMENTS**

RECEIVED ON THE SUBJECT DRAFT NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM(NPDES) PERMIT IN ACCORDANCE WITH REGULATIONS
LISTED AT 40CFR124.17

APPLICANT: Rio Algom Mining LLC
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ISSUING OFFICE: U.S. Environmental Protection Agency
Region 6
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PERMIT ACTION: Final permit decision and response to comments received on the
draft reissued NPDES permit publicly noticed on January 28,
2011.

DATE PREPARED: March 8, 2011

Unless otherwise stated, citations to 40CFR refer to promulgated regulations listed at Title 40,
Code of Federal Regulations, revised as of February 4, 2011.

SUBSTANTIAL CHANGES FROM DRAFT PERMIT

There are substantial changes from the draft reissued permit publicly noticed on January 28, 2011. All minor changes and their rationale for changes can be found in the following response to certification or response to comments.

- A. Add monitoring requirements and effluent limitations for total cadmium;
- B. Add monitoring requirements for dissolved cadmium and total hardness;
- C. Change Monthly Average effluent limitation for total selenium from 3.3 ug/l to 5.0 ug/l.

State Certification

Ms. Marcy Leavitt (NMED) letter to Mr. Miguel Flores (EPA 6), dated March 3, 2011, certifies that the discharge will comply with the applicable provisions of the Clean Water Act and with appropriate requirements of State law upon inclusion of the condition addressed below.

Conditions of Certification

EPA proposed to delete monitoring requirements and effluent limitations for total cadmium based on 2007 effluent data. The acute aquatic life criterion for cadmium at a hardness of 20 mg/l is 0.42 µg/l. The average total cadmium of 0.25 µg/l reported in the application indicates reasonable potential (RP) to exceed the criterion of 0.42 µg/l. NMED requires the final permit include the effluent limitation for cadmium.

Response: Section 401(d) of the Clean Water Act (the Act) provides that any State certification provided under Section 401 of the Act “shall become a condition on any Federal license or permit subject to the provision of this section,” and 40 CFR § 124.55(a)(2) mandates that “no final permit shall be issued” unless it incorporates the State certification requirements. The effluent limitation for total cadmium is added into the final permit.

Response to Comments

NMED has also provided the following comments.

Comment 1: EPA may wish to include total hardness and dissolved cadmium monitoring and reporting requirements in order to gather data to assess RP for dissolved cadmium in the future.

Response 1: EPA agrees because the water quality criterion for cadmium is based on dissolved cadmium and is hardness-dependent.

Comment 2: EPA proposed to remove monitoring requirements and effluent limitations for vanadium because 2007 effluent data demonstrate no RP. However, vanadium is commonly associated with uranium ore bodies. NMED requests that EPA include monitoring and reporting requirements for dissolved vanadium. The monitoring requirements will provide additional confidence that the discharge does not cause or contribute to the violation of water quality standards (WQS) and may be used to evaluate the effectiveness of restoration.

Response 2: Total vanadium values were reported as 7.2 µg/l and 24 µg/l, respectively. Because the applicable WQS for dissolved vanadium is 100 µg/l and the facility is undergoing restoration, it would be unlikely (no RP) that the potential discharge may cause or contribute to a violation of WQS. Also, dissolved vanadium is included in the section of Effluent Characteristic Analysis. EPA determines not to establish monitoring requirements for vanadium in the final permit.

Comment 3: The draft permit has monthly average and daily maximum effluent limitations for total selenium of 303 µg/l and 5 µg/l, respectively. NMED believes that 303 is a typographical error for 3.3. But, due to recent revisions to the *procedures for Implementing National Pollutant Discharge Elimination System Permits in New Mexico*, EPA may want to consider setting the effluent limitations no more stringent than the current total selenium criterion of 5 µg/l.

Response 3: EPA determines that it was incorrect interpretation of the previous Implementation Guidance to establish an effluent limitation more stringent than the applicable WQS in the previous permit. Therefore, EPA agrees with NMED to change the monthly average limit to 5 µg/l.

Comment 4: The proposed permit includes “*1” in the Whole Effluent Toxicity Testing Table.

Response 4: It is a typing error and removed from the final permit.